

REMARKS/ARGUMENTS

35 USC § 102(b)

Claims 1-3, 6-8, and 21 were rejected under 35 USC § 102(b) as being anticipated by Wu (U.S. Pat. No. 6,467,109). In his reasoned response, the office seems once more to argue that Wu's stand would be able to perform the claimed function. The applicant disagrees for various reasons:

Cited Elements fail to Have Same Arrangement

Anticipation under Section 102 requires "the presence in a single prior art disclosure of all elements of a claimed invention *arranged as in that claim.*" *Panduit Corp. v. Dennison Manufacturing Co.*, 774 F.2d 1082, 1101, 227 U.S.P.Q. (BNA) 337, 350 (Fed. Cir. 1985) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. (BNA) 193, 198 (Fed. Cir. 1983)).

Applied to the present instance, it should be noted that claims 1 and 21 expressly require a cross brace. However, such is not the case in the cited reference. While the examiner asserts that element 1 of Wu would be a cross brace, it is clear from the description of Wu that *element 1 is a base rod, which is entirely inconsistent with a cross brace and therefore not arranged as it the claim.* To even further clarify that the cross brace is not a base rod, the applicant amended claims 1 and 21 to require that the pair of cross braces comprises a first and second cross brace that are rotatably coupled to each other via a point of rotation that is in the middle of each cross brace [Support is found on page 5, line 24].

Similarly, the office asserted that element 4 of Wu would be a leg. Such is simply not the case. Element 4 is described as a connection rod and clearly fails to exhibit characteristics of a leg (*i.e.*, a support that contacts the ground on one end and a portion of furniture on the other to so maintain the portion of the furniture off the ground). Again, the alleged element in Wu is not arranged as in the claim.

Not All Elements Are Present in the '109 Patent

It is well established that anticipation under 35 U.S.C. § 102 requires the presence in a

single prior art disclosure of *each and every element of a claimed invention*. *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2D (BNA) 1051, 1053 (Fed. Cir. 1987); *Carella v. Starlight Archery*, 804 F.2d 135, 138, 231 U.S.P.Q. (BNA) 644, 646 (Fed. Cir.), modified on *reh'd*, 1 U.S.P.Q.2D (BNA) 1209 (Fed. Cir. 1986); [**7] *Jamesbury Corp. v. Litton Indus. Prods., Inc.*, 756 F.2d 1556, 1560, 225 U.S.P.Q. (BNA) 253, 256 (Fed. Cir. 1985); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. (BNA) 481, 485 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. (BNA) 193, 198 (Fed. Cir. 1983).

Here, the element of "... a pair of cross braces comprising a first and second cross brace that are *rotatably coupled to each other via a point of rotation that is in the middle of each cross brace...*" is neither taught nor suggested in Wu. Moreover, Wu fails to teach that "...the cross braces, without being uncoupled from the legs and support rods and upon folding of the hammock stand *produce a movement* in which two of the four legs approximate each other in a front-to-back and side-to-side motion as two of the support rods pivot towards each other..."

It should be noted that the examiner's statement that the cross braces would be capable of forcing a specific movement is not supported by Wu. *While Wu's stand may arguably allow such movement with operator manipulation, Wu's stand does not produce such specific movement as expressly claimed.* Wu's alleged cross braces (which are base rods) fail to produce any movement. Indeed, the base rods preclude movement of the support rods as the alleged legs are coupled to the base rods. Consequently, the rejection of claims 1-3, 6-8, and 21 are not anticipated by Wu and the rejection should be withdrawn.

35 USC § 103

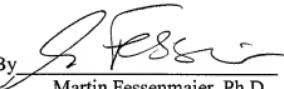
Claims 9-10 were rejected under 35 USC § 103 as being obvious over Wu in view of Bien (U.S. Pat. No. 3,464,069). The applicant disagrees, especially in view of the amendment herein. As pointed out above, not all of the elements required by independent claim 1 are present in Wu, and Bien fails to remedy such defect.

With further respect to the examiner's rejection of claim 10 and the office's statement that the sheet of fabric inherently comprises a sheet of fabric, the applicant points to the claim language "...further comprising...", thus requiring an additional handle. Clearly, the inherency argument is flawed in that regard.

In view of the present amendments and arguments, the applicant believes that all claims are now in condition for allowance. Therefore, the applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Fish & Associates

By 
Martin Fessenmaier, Ph.D.
Reg. No. 46697
Tel.: (949) 253-0944